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DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND
REGULATORY AFFAIRS,
BOARD OF FUNERAL DIRECTORS

Petitioner,

v.

SHARON JOHNSON-SALLEY
Respondent.

Case No.: CR-B-07-800053

**ORDER DENYING RESPONDENT'S MOTION
FOR A STAY, REDUCTION OF PENALTY AND EXTENSION
OF TIME TO PAY FINE**

On December 21, 2006, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") through the Board of Funeral Directors ("Board") (collectively, the "Government") issued a Notice of Intent to Take Disciplinary Action against Respondent Sharon Johnson-Salley. The Notice informed Respondent Johnson-Salley that the Government sought to suspend or revoke Respondent Johnson-Salley's license to act as a Funeral Director, based upon seven specified charges. D.C. Code, 2001 Ed., 2001 Ed. § 47-2853.17. On April 15, 2008, I issued a Final Order concluding that the Government had proven by a preponderance of evidence four of the seven charges. Specifically, the charges I sustained against Respondent Johnson-Salley were:

Charge III: willfully breached a statutory, regulatory, or ethical requirement of the profession or occupation in violation of D.C. Code, 2001 Ed. § 47-2853.17(a)(16);

Charge IV: violated District laws, regulations, or rules related to the practice of an occupation or profession in violation of D.C. Code, 2001 Ed. § 47-2853.17(a)(19);

Charge VI: willfully acted as a funeral director with an unauthorized person, and aided an unauthorized person to act as a funeral director in violation of D.C. Code, 2001 Ed. § 47-2853.17(a)(13); and

Charge VII: conspired with, or aided and abetted, persons in the violation or circumvention of District law relating to the practice of funeral directing, for which the Board of Funeral Directors may take disciplinary action pursuant to D.C. Code, 2001 Ed. § 3-408(a)(6).

Based on these conclusions, I assessed a fine against Respondent Johnson-Salley of \$5,000 for each charge and ordered that Respondent Johnson-Salley pay total fines of \$20,000.¹ No charges had been brought against Capitol Mortuary and my Final Order imposed no penalties on it.

On May 5, 2008, Respondent Johnson-Salley filed a motion to stay enforcement of my April 15, 2008, Final Order pending resolution of Respondent Johnson-Salley's motion, reduce the penalty assessed and give Respondent Johnson-Salley additional time to pay the fine ultimately imposed, on the grounds that the penalty imposed would impose an untenable financial burden on Capitol Mortuary. Respondent Johnson-Salley submitted bank statements from Wachovia Bank for a commercial checking account in the name of Capitol Mortuary, Inc. covering January and February 2008 (Respondent Johnson-Salley claimed that she submitted a statement for March 2008, however, that was not attached to the pending motion). Capitol Mortuary, Inc., also made a \$5,000 payment toward Respondent Johnson-Salley's outstanding fine. Respondent Johnson-Salley argued that if the fine were not reduced, "assuming Respondent is capable of paying fully paying [*sic*], [it] shall have a devastating impact on the Funeral Home." Respondent's motion, page 2. Respondent Johnson-Salley also noted in her

¹ The Government had argued that Respondent Johnson-Salley's actions were "egregious" and that Respondent imprudently "harmed families who entrusted their deceased loved ones" to Respondent's care, such that Respondent's Funeral Director's license should be revoked. Respondent had argued that the Government failed to meet its evidentiary burden and that all the charges should be dismissed. Respondent never proposed an alternate sanction were I to conclude, as I did, that the Government established one or more violations.

motion that “the account statements [attached to the motion] show all cash available to the Funeral Home for Business [*sic*] operations. If Respondent could pay the Penalty [*sic*] even in a two month period it would be rendered disastrously insolvent in one month.” *Id.*, at page 3, footnote 1. Respondent Johnson-Salley’s motion seeks a reduction in the fine with thirty additional days to pay the reduced fine, or, alternatively, an additional 180 days to pay the full, outstanding fine amount.

The Government filed an opposition to Respondent Johnson-Salley’s motion on May 19, 2008. The Government argued, in a hard-charging brief, that “Respondent offers no justifiable basis for a reduction of the penalty imposed or an extension of time within which to pay.” Government’s opposition at page 4. The Government noted that it is “appalled at the relief requested by Respondent in its [pending] Motion” *Id.*, at page 3. The Government reiterated that its original proposed penalty, revocation of Respondent Johnson-Salley’s professional license, was the “appropriate” sanction for Respondent Johnson-Salley. The Government characterized the fine I imposed as a display of “leniency.” *Id.* The Government urged me to deny Respondent Johnson-Salley’s motion.

I am denying Respondent Johnson-Salley’s motion, but not for the reasons suggested by the Government. Rather, I am denying the motion because the Respondent in this case, and the party who must pay the fine, is Sharon Johnson-Salley, NOT Capitol Mortuary, Inc. While Capitol Mortuary may or may not be able to pay the fine, the motion does not assert that Respondent Sharon Johnson-Salley herself is unable to pay the fine, let alone unable to pay it timely.² This decision renders Respondent Johnson-Salley’s request for a stay moot.

² Even if Capitol Mortuary were the Respondent, the pending motion contains no sworn affidavits attesting to, for instance, the number of bank accounts held by Capitol Mortuary, or the actual cash flow of Capitol Mortuary. Further, the bank statements submitted by Respondent Johnson-Salley were not even certified copies. If Respondent chooses to file a similar motion on behalf of herself, she would need

Consequently, Respondent Johnson-Salley's pending motion is denied.

May 15, 2008

_____/s/_____
Jesse P. Goode
Administrative Law Judge

reliable evidence to support her request.